

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 7/24/02 Item: 3.c.

File Number
DA-3COM - 3COM Development Agreement

Application Type
Development Agreement Amendment

Council District
4

Planning Area
North San José

Assessor's Parcel Number(s)
097-03-066, 79, 81, 85, 87, 93, 100-105, 109-112

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Andrew Crabtree

Location: South side of State Route 237, between Zanker Road and North First Street

Gross Acreage: 72.16

Net Acreage: 72.16

Net Density: NA

Existing Zoning: IP Industrial Park

Existing Use: Industrial Office

Proposed Zoning: No change

Proposed Use: Industrial Office

GENERAL PLAN

Completed by: AC

Land Use/Transportation Diagram Designation
Industrial Park

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: AC

North: State Route 237 / Industrial

A (PD) Planned Development, R-M Multiple Residence, A Agriculture

East: Industrial

IP Industrial Park

South: Industrial / Residential

IP Industrial Park, A(PD) Planned Development

West: Residential

A(PD) Planned Development

ENVIRONMENTAL STATUS

Completed by: AC

☒ Environmental Impact Report found complete on June 24, 1997
☐ Negative Declaration circulated on
☐ Negative Declaration adopted on

☐ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: AC

Annexation Title: Lick No. 11/Lick No. 23

Date: December 24, 1963/March 16, 1982

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____

Approved by: _____
☐ Action
☒ Recommendation

APPLICANT/OWNER/

John Igoe, Vice President
Real Estate/Site Services
Palm, Inc.
5400 Bayfront Plaza
Santa Clara, CA 95052

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: AC

Department of Public Works, Fire Department

None received

Other Departments and Agencies

None received

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Palm, Inc., has proposed an amendment to the Development Agreement by and between the City of San José and Palm, Inc. Corporation which was originally approved as a Development Agreement with 3Com Corporation by the City Council on June 10, 1997.

The proposed amendment would extend the time frame of the Agreement and clarify its terms for fulfillment. The current Agreement requires that the Developer occupy an unspecified portion of the site by May 20, 2004. The amended Agreement would require that the Developer occupy at least 200,000 square feet on the property by December 31, 2005. The proposed Amendment would also specifically incorporate a specific site plan that represents an amended version of the site plan approved under Site Development Permit (HSH 96-12-089).

An earlier amendment to this Development Agreement was previously heard by the Planning Commission on March 14, 2000 and approved by the Council on March 21, 2000. That amendment extended the timeframe for implementation of the Agreement by eleven months and expanded the Agreement to include affiliates of 3Com or a new entity formed by 3Com, to satisfy the Subject Property occupation requirement in the Agreement. As a result of this Amendment, the Agreement was transferred to Palm, Inc as the Developer.

ENVIRONMENTAL REVIEW

The environmental review for the Development Agreement Amendment is covered under the Environmental Impact Report prepared for the project's Site Development Permit (HSH 96-12-089). The EIR was certified as complete by the Planning Commission on June 4, 1997 and was upheld by the City Council on June 24, 1997.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Industrial Park.

ANALYSIS

Policy Background

The Development Agreement vests certain development rights for the developer for the 3Com (Palm, Inc.) property in North San José in exchange for the developer's agreement to construct public and private improvements and to occupy the Subject Property within five years of the effective date of the Agreement. The vested elements of the Development Agreement include the existing General Plan designation, the Site Development Permit issued for the property (HSH 96-12-089) and various project parameters such as the maximum density and intensity of use, the maximum height and size of the proposed buildings, provisions for reservation or dedication of land for public purposes and provisions for public improvements.

The subject site is located within the North San Jose Area Development Policy area, and is subject to the Policy's Floor Area Ratio (FAR) limitation of 35%. This limitation restricts the total allowable square footage of building area to 35% of the total site square footage. Under the provisions of this Policy, if a site is developed for a non-industrial use, a transfer of allowable building density can take place from the non-industrial site to an industrial site within the policy area. City policy is to maintain this transferable square footage in a "pool" to be allotted to development projects that make use of measures that potentially reduce traffic impacts. The City has considered projects with a single large campus user, such as 3Com or Palm, to meet this criteria because such a campus often incorporates employee cafeterias, exercise facilities, employee commute programs and other measures that would reduce potential traffic impacts.

The subject Agreement incorporates a Site Development Permit (HSH 96-12-089) which allows the subject property to develop an additional 1.1 million square feet beyond the standard 35% FAR limitation. Of this 1.1 million, approximately 990,000 square feet has been allotted to the undeveloped portion of the project site bounded by North First Street, Headquarters Drive and Highway 237.

Proposed Changes

Approval of the proposed Development Agreement Amendment would extend the Applicant's ability to utilize this extra square footage by a period of approximately 18 months to December 31, 2005. Under the existing Agreement, the Applicant would need to occupy the campus by May 20 of 2004. As construction has not yet commenced on the site, it is unlikely that the Applicant will be able to meet the existing deadline and would thus forfeit the allotted extra square-footage without approval of this Amendment. The time extension would improve the Applicant's ability to take advantage of this extra square footage for a development that would include a large campus user.

Approval of the Amendment would also specifically incorporate a revised site plan entitled "Palm, Inc. Corporate Campus San José, CA – Sheet L-100 dated March 16, 2001" (attached). This site plan was approved last year as an amendment to the originally vested Site Development Permit. The Site Development Permit had been amended four times previously to permit altered site plans, but these site plans were not specifically incorporated in to the Development Agreement. The proposed Amendment would also make minor changes to the Recitals section to reflect changes to the ownership of the subject properties.

Review Criteria

City Ordinance No. 24209 establishes criteria by which the City may enter into a Development Agreement. In order for the City Council to approve the Agreement, it must find that the proposed development is consistent with the General Plan, meets important economic, social, environmental or planning goals of the City, and facilitates the development of the subject property. Additionally, the proposed development must be found to either incur unusually substantial public improvement costs and to demonstrate commitment to a very high standard of quality beyond the standard City requirements or the development must be found to make a substantial contribution to the economic development of the City. In the latter case, the development must be for industrial office, research and development or similar use, involve a parcel of at least 5 acres in size, create or retain at least five hundred jobs, be used as a corporate headquarters by the primary user of the development and qualify as a “Special Handling” project per City requirements. Development Agreements are approved through the adoption of a City ordinance by the City Council. The effective date of the Agreement is the effective date of the ordinance unless a later date or the occurrence of a specific event is specified in the Agreement.

Development Agreements may be amended or cancelled by the mutual consent of the parties to the Agreement or their successors in interest. An Amendment may be granted upon a finding by the City Council that the Amendment is consistent with either the General Plan and zoning codes in effect at the time the ordinance authorizing the agreement was adopted, or at the time of any Amendment. Review of an Amendment is limited to consideration of those elements proposed to be added or changed.

Review Analysis

The proposed changes would support the Applicant’s ability to develop the subject site with an office or research and development type corporate campus. Given current economic conditions, it is unlikely that the property will be able to be developed within the time frame of the existing Agreement. Extending the time frame of the Agreement by 18 months will provide additional opportunity for development of the site under the terms of the Agreement, but will also allow the City the opportunity for further review within a reasonable time period, should the site’s development not commence soon. The specific site plan proposed for incorporation within the Agreement depicts an office or research and development type corporate campus. The referenced site plan includes high-quality landscaping and other site amenities consistent with the City’s expectations for a corporate campus. The depicted buildings would support uses consistent with the site’s Industrial Park General Plan designation.

Conclusion

The Development Agreement as initially established has been found to conform with all applicable City policies, including the General Plan, economic, social and environmental goals of the City, and the regulations governing the issuance of Development Agreements. The proposed change to the Agreement will not result in an alteration of the Agreement’s conformance to the General Plan and Zoning Code in place at the time of granting of the original Agreement or to those currently in place. Staff supports the proposed Amendment because it meets all of the established City criteria for Development Agreement amendments.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Development Agreement Amendment for the following reasons:

1. The Development Agreement Amendment conforms to the designation of Industrial Park on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The Development Agreement Amendment conforms to the requirements of the IP Industrial Park Zoning District.
3. The Development Agreement Amendment is consistent with the approved Site Development Permit HSH 96-12-089.
4. The Development Agreement Amendment conforms to the requirements of the Development Agreement Ordinance.

c: City Attorney's Office